Combatting Suspicion, Creating Trust: The Interface of Muslim Communities and Law Enforcement in the United States after 9/11

Sangay Mishra and **Jinee Lokaneeta,** Drew University

After 9/11, law enforcement agencies in Southern California attempted to implement trust and cooperation approaches toward Muslim communities as part of counterterrorism policing. Based on interviews with key law enforcement officials and Muslim community leaders, alongside analysis of legal cases, reports, and media coverage, we argue that these trust and cooperation approaches have failed for three main reasons. First, law enforcement agencies failed to separate community outreach and intelligence gathering, and second, local and federal agencies engaged in extensive coordination in the name of efficiency. Both of these actions have led to hostility and distrust within the Muslim communities. Finally, dissident values from the Muslim communities found little space within the trust and cooperation forums, thereby requiring them to challenge unfair practices from outside.

Keywords: community policing, Muslims, trust and cooperation, surveillance, counterterrorism

In March 2011, Peter King, U.S. Representative for New York's 2nd congressional district, conducted hearings on "The Extent of Radicalization in the American Muslim Community and the Community's Response."[1] Civil liberty groups and Muslim organizations criticized the hearings for singling out Muslim communities. At this hearing, Sheriff Lee Baca from the Los Angeles Sheriff's Department (LASD) touted successful efforts in creating trust and cooperation with their local Muslim communities. Indeed, the same year, the Los Angeles Police Department's (LAPD) Counter-Terrorism and Special Operations Bureau (that worked closely

with the LASD), received Government Security News's award as the "Most Notable Law Enforcement Counter Terrorism or Crime Prevention Program."[2]

However, Southern California also witnessed Muslim community organizations filing several lawsuits against the Federal Bureau of Investigation (FBI) and the LAPD for surveillance of the community and the use of informants in their mosques even while community leaders participated in many law enforcement–initiated outreach forums.

We analyze the interface between Muslim communities and the law enforcement agencies in Southern California in the post-9/11 period to provide insights into the effectiveness of trust and cooperation approaches in the arena of counterterrorism policing. We focus on the paradox emerging from the attempts of law enforcement agencies to build trust and cooperation with the community, on the one hand, and the use of informants and surveillance of the Muslim communities on the other. Policing—especially counterterrorism policing—typically requires some intelligence gathering, and an inherent tension exists between the need for intelligence and an expectation of cooperation. However, we argue that this case shows that the post-9/11 trust and cooperation approaches failed for reasons that went beyond this inherent tension. First, there was an inability to separate intelligence gathering from outreach. Second, this period witnessed an increased fusion of local and federal policing. Consequently, third, the forums created for trust and cooperation could not maintain a space for dialogue and dissident voices; the dissenting voices came primarily from outside these forums rather than from within.

Emergence of the trust and Cooperation Approaches in the Post-9/11 Context

The racialization and targeting of Muslim Americans in the post-9/11 period was preceded by a longer history of stereotyping of Muslims and Arabs. Following the Iranian revolution in 1979 and the end of the Cold War in 1991, terrorism—specifically Islamic terrorism—became an important issue in U.S. foreign policy. Edward Said described how, by the late 1980s, Islam called up "images of bearded clerics and mad suicide bombers, of unrelenting Iranian mullahs, fanatical fundamentalists, and kidnappers, remorseless turbaned crowds who chant hatred of the U.S."[3] In his 2006 book *Reel Bad Arabs*, Jack Shaheen showed that Hollywood

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2. "LAPD wins GSN's 2011 award for 'Most Notable Law Enforcement Counter Terrorism or Crime Prevention Program,'" at https://www.lapd.com/article/lapd-wins-gsns-2011-award-most-notable-law-enforcement-counter-terrorism-or-crime-prevention.

3. Edward Said, "Identity, Negotiation, and Violence," *New Left Review* 171(1988): 46–60, at 47.

depicts Arabs as "brute murderers, sleazy rapists, religious fanatics, oil-rich dim-wits and abusers of women."[4] Shaheen's research found that of over 1000 films, pri-marily in the 20th century, depicting Arabs and Muslims, 932 did so in a stereotyp-ical or negative light.[5]

Recent political science scholarship, drawing upon survey data in the post-9/11 period, has shown that Muslim Americans are viewed very unfavorably—often worse than any other racial, ethnic, and religious group.[6] Portrayals of Muslim Americans as violent, misogynistic, anti-American, and perpetually foreign[7] were accompa-nied by a domestic war on terror in the post-9/11 period, leading to profiling, target-ing, detention, and large scale surveillance of American Muslims.[8] Law enforcement agencies and U.S. officials gradually began to recognize the dangers of such a hostile approach.

Scholars and civil rights activists such as David Harris had long argued that ra-cial and religious profiling of Muslims—premised on the idea of guilt by associa-tion—was not only ethically wrong but also an ineffective law enforcement strat-egy. He argued:

The first priority in our struggle against terrorism remains the gathering of intelligence. It is important, therefore, to take note of the wide agreement

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4. Jack Shaheen, *Reel Bad Arabs: How Hollywood Vilifies a People* (Ithaca, NY: Olive Branch Press, 2006), at 8.

5. Ibid.

6. Nazita Lajevardi, "A Comprehensive Study of Muslim American Discrimination by Leg-islators, the Media, and the Masses," Doctoral Dissertation, University of California, San Diego , 2017. Also see Nazita Lajevardi and Kassra AR Oskooii, "Old-Fashioned Racism, Contemporary Islamophobia, and the Isolation of Muslim Americans in the Age of Trump," *Journal of Race, Ethnicity, and Politics* 3 (2018): 112–52; Michael Tesler, "Islamophobia in the 2016 Election," *Journal of Race, Ethnicity, and Politics* 3 (2018): 153–55.

7. Kassra Oskooii, Karam Dana, and Matthew Barreto, "Beyond Generalized Ethnocentrism: Islam-Specific Beliefs and Prejudice toward Muslim Americans," *Politics, Groups, and Identities* (2019 First View); and Saher Salod, "Citizenship Denied: The Racialization of Muslim American Men and Women Post-9/11," *Critical Sociology* 41 (2015): 77–95.

8. Susan Akram and Martiza Karmley, "Immigration and Constitutional Consequences of Post-9/11 Policies Involving Arabs and Muslims in the United States: Is Alienage a Distinction without Difference," *U.C. Davis Law Review* 38 (2005): 609–700; Muzzafer Chisti et.al., "Amer-ica's Challenge Domestic Security, Civil Liberties, and National Unity after September 11," Mi-gration Policy Institute (2003); Moustafa Bayoumi, *This Muslim American Life: Dispatches from the War on Terror* (New York: New York University Press, 2015); and Khaled Beyodun, *American Islamophobia: Understanding the Roots and Rise of Fear* (Oakland: University of California Press, 2018). Counter-insurgency scholars remind us that due to an inability to distinguish between a threat and non-threat, there is often a tendency in policing to target an entire community as "suspicious." See Rizwann Sabir, "Blurred Lines and False Dichotomies: Integrating Counter-insurgency into the UK's Domestic 'War on Terror,'" *Critical Social Policy* 37 (2017): 202–24.

among officials about the effectiveness, importance, and centrality of one particular method of intelligence gathering: the creation and cultivation of strong relationships and partnerships between law enforcement agencies and Muslim communities, in order that intelligence flows from these communities to law enforcement as easily as possible.[9]

Deborah Ramirez and Stephanie Woldenberg called profiling of Muslims "damaging and ineffective as a counterterrorism tool" and argued:

> Law enforcement must shift the focus of its attention on the Arab and Muslim communities from one of suspicion to one of partnership. Law enforcement should pursue an open dialogue with members of the Arab, Muslim, and Sikh communities to utilize the specific knowledge that could help it narrow its search. These voluntary partnership initiatives are essential for three reasons: (1) they can help to prevent and protect the community from hate crimes and hate incidents; (2) they can help prevent future terrorist attacks; and (3) they can prevent further exploitation of these communities by Al-Qaeda operatives.[10]

A RAND corporation report, drawing upon global counterterrorism experiences, argued that terrorism is primarily a policing problem, not a military matter, thus requiring a close relationship of trust and cooperation with the communities where terrorists hide and recruit people.[11] Even the FBI started strongly advocating for building a partnership with Muslim communities. Then-Director Robert Muller emphasized in 2006 that if the United States wished to prevent future attacks, a close cooperation between law enforcement and Muslim communities in the United States would be absolutely vital.[12] Michael Chertoff, Secretary of the Department of Homeland Security, stated, "We must build a new level of confidence and trust among the American Muslim community, who are critical partners in protecting

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9. David Harris, "Law Enforcement and Intelligence Gathering in Muslim and Immigrant Communities After 9/11," *N.Y.U. Review of Law and Social Change* 34 (2010): 123–90, at 132.

10. Deborah Ramirez and Stephanie Woldenberg, "Balancing Security and Liberty in a Post-September 11th World: The Search for Common Sense in Domestic Counterterrorism Policy," *Temple Political & Civil Rights Law Review* 14 (2004–05): 495–515, at 502.

11. Seth G. Jones and Martin C. Libicki, "How Terrorist Groups End: Lessons for Countering Al Qa'ida," Rand Corporation, 2008, at https://www.rand.org/content/dam/rand/pubs/monographs/2008/RAND_MG741-1.pdf.

12. Robert S. Mueller. Speech, June 23, 2006; at https://archives.fbi.gov/archives/news/speeches/the-threat-of-homegrown-terrorism.

our community."[13] Consequently, the FBI reoriented its Multicultural Advisory Committees (MCAC) to focus on Muslim communities across its different jurisdictions in the post-9/11 period. In Southern California, the LASD created the Muslim Community Affairs (MCA) Unit and the LAPD constituted the Muslim Forum, embodying this goal of building trust and cooperation with the Muslim communities.

Trust and Cooperation Approaches: Insights from Community Policing

The trust and cooperation approaches are broadly inspired by the community policing framework. While the community policing literature is vast, we focus on those efforts that are related to creation of trust with community members—such as forums of participation and dissent—and their critiques.

Community policing emerged in the context of the limits of the professional law enforcement model in dealing with racial disparity and urban unrest in the 1950s and 1960s. It aims to democratize policing in the United States, based on the premise that a partnership between the police and the community is most effective for crime reduction.[14] David Sklansky argued that modernization of police forces, which started in the late 19th century and peaked in the 1950s and 60s, led to an emphasis on a scientific approach, rational bureaucracy, and proper hierarchy of command control, but it failed to fully address the issue of police arbitrariness, particularly its high-handed approach towards racial minorities.[15] The community policing strategies that aim to address these problems of arbitrariness and discrimination include team policing (with more systematic interaction between police lieutenants in particular geographical areas), community relations units, and community crime prevention programs.

From the 1980s onward, use of foot patrols as a way to reduce fear among minorities became more common, inspired in part by the "broken windows" theory—articulated by James Wilson and George Kelling—that considered the problems of

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13. "Homeland Security: The Next 5 Years: Hearing Before the Senate Committee on Homeland Security and Governmental Affairs, 109th Cong.," 64 (2006), Statement of Michael Chertoff, Secretary of the U.S. Department of Homeland Security, at https://www.govinfo.gov/content/pkg/CHRG-109shrg30595/html/CHRG-109shrg30595.htm.

14. Mark Harrison Moore, "Problem-Solving and Community Policing," *Crime and Justice* 15 (1992): 99–158, at 123.

15. The first phase of police reforms was led by civic and religious groups who aimed at getting officers out of the hands of ward bosses and politically influential figures. See David Alan Sklansky, "Police and Democracy," *Michigan Law Review* 103 (2005):1699–1830.

everyday living as important as serious crime.[16] As David Thacher explains, police chiefs would tell their officers that a bag of garbage (similar to a broken window) in a neighborhood suggested disorder and had to be addressed.[17] Therefore, community policing tried to connect "order maintenance," or soft crime such as "loud boom boxes, public drinking, illegal parking," with crime control."[18] If the police worked in partnership with the community to address soft crime, it would gain the trust of the community as well as deter serious crime. The "experience and local knowledge" in the community could thus be tapped for problem solving.[19]

One challenge to community policing that scholars have raised is that community itself is a contentious category. Community policing in general has employed an idealized notion of community that presumes a unity of interests among its members. But heterogeneity within a community makes community policing challenging: the interests of shopkeepers are not necessarily the interests of people experiencing homelessness; African Americans in an inner city may have different interests than Latinos.[20]

Other scholars have tried to sidestep the issue of divergence within communities by considering possibilities of spaces that allow for expression of dissident values in relation to law enforcement, which would lead to a creation of trust. For instance, David Thacher describes community policing as an effort to reduce the "institutional segregation" of police departments by opening new channels of communications and cooperation with a variety of outside groups, both governmental and non-governmental, and making space for "dissident values" from the community. Thacher argues that community policing can thereby democratize policing and make it responsive to constituents.[21]

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16. George L. Kelling and James Q. Wilson, "Broken Windows: The Police and Neighborhood Safety," *Atlantic Magazine*, March, 1982. According to Lerman and Weaver, the Broken Windows Theory became an excuse for over-policing and targeting of Black and Latino communities, leading to excessive use of force and mass incarceration. See Amy E. Lerman and Vesla M. Weaver, *Arresting Citizenship: The Democratic Consequences of American Crime Control* (Chicago: University of Chicago Press, 2014).

17. David Thacher, "Conflicting Values in Community Policing," *Law & Society Review* 35 (2001): 765–98, at 778.

18. Ibid, 777–78.

19. Eck and Rosenbaum quoted in William Lyons, *The Politics of Community Policing. Rearranging the Power to Punish* (Ann Arbor: University of Michigan Press, 1999); see pages 35–44, which give a good overview of the shifts in policing.

20. Reenah L. Kim, "Legitimizing Community Consent to Local Policing: The Need for Democratically Negotiated Community Representation on Civilian Advisory Councils," *Harvard Civil Liberties-Civil Rights Law Review* 36 (2001): 461–525.

21. Thacher is quoted in David Alan Sklansky, "Police and Democracy," *Michigan Law Review* 103 (2005):1699–1830.

Rachel Wahl and Stephen K. White propose deliberative forums as spaces to engage with dissident values, spaces where "ideas and proposals could be freely discussed and criticized with the hope that this process could lead to agreements concerning improvements in the practice and policies of the police."[22] Wahl and White suggest that the formation and continuation of deliberative forums, while limited because of the unequal power of the participants, can lead to deliberative democratic legitimacy, which provides the foundation for trust.[23]

Rosa Squillacote and Leonard Feldman question the usefulness of deliberation in this context. The police, they suggest, could be both biased and discriminatory, and the judicial process has primarily failed to intervene.[24] Thus, it is urgent to engage with police as an administrative agency. The citizens themselves are required to restrain the police through "agonistic surveillance," which refers to a form of signaling back from citizens towards the democratic administrative state.[25] They find the traditional deliberative forums for police reform inadequate due to the inequality inherent in those forums and a tendency to homogenize the community. Rejecting traditional methods of police reform such as body cameras, they suggest the need to adopt practices where the citizens themselves are involved in surveillance of the police actions.[26] In this view, dissident efforts must emerge from outside the deliberative forums that ultimately become the only avenue for the Southern California Muslim community groups.

Tom Tyler and others underline the importance of procedural justice in securing public cooperation with law enforcement agencies. Acknowledging the significance of a community's cooperation in dealing with crime, Tyler argues that when people judge legal institutions as making their decisions fairly, they are likely to view those authorities as more legitimate and more willing to defer to and cooperate with them in their everyday legal behavior.[27] In this framework, the quality of

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22. Rachel Wahl & Stephen K. White, "Deliberation, Accountability, and Legitimacy: A Case Study of Police-Community Forums," *Polity* 49 (2017): 489–517, at 490.

23. Ibid, 502.

24. Rosa Squillacote and Leonard Feldman, "Police Abuse and Democratic Accountability: Agonistic Surveillance of the Administrative State," in *Police Abuse in Contemporary Democracies*, ed. Guillermina Seri, Michelle D. Bonner, Mary Rose Kubal, and Michael Kempa (New York: Palgrave Macmillan, 2017): 135–64.

25. Ibid, 139.

26. Ibid, 150. They give the example of copwatch, "a national movement rooted in local organizers training people who live in communities where police misconduct is prevalent to film the police."

27. Tom R. Tyler, "Procedural Justice, Legitimacy, and Effective Rule of law," *Crime and Justice* 30 (2003): 283–357.

decision making depends on whether decisions are made in neutral and unbiased ways that do not involve prejudice and personal biases. Another important element of procedural justice is the quality of interpersonal treatment that people experience when dealing with law enforcement agencies: "This includes treatment with dignity and respect, acknowledgement of one's rights and concerns, and a general awareness of the importance of recognizing people's personal status and identity and treating those with respect. . . ."[28] One indicator of respect, Tyler and others argue, is allowing people to voice their concern.

The framework of procedural justice and its relationship to cooperation with law enforcement in routine contexts is extremely relevant for counterterrorism policing. Based on a survey conducted of Muslim Americans in New York City, Schulhofer, Tyler, and Huq reported that factors such as religiosity, political belief, cultural difference, and one's views on American policy in Afghanistan, Iraq, or Israel do not determine an individual's willingness to cooperate with police. Instead, as in the case of conventional law enforcement, they found a strong association between willingness to cooperate with counterterrorism policing and perceptions of procedural justice.[29] In another survey-based work, Kassra Oskooii suggests that the perception of political discrimination—laws and institutions not treating Muslims fairly—has a major impact on how Muslim Americans engage with the political process. Such a perception pushes them to come out and challenge existing policies.[30] The issues of perceived procedural fairness and respectable treatment become critical when communities evaluate their relationship with law enforcement agencies, and we see this playing out in our Southern California case study.

Why Southern California?

Even though the trust and cooperation approaches in counterterrorism policing have been introduced in several cities in the United States, we focus on Southern California because of the size of its Muslim American community and because it has been presented by both participants and observers as one of the most successful. Southern California has one of the largest Muslim concentrations in the United States with an estimated 500,000 Muslims, and the second highest number of

28. Ibid, 350.

29. Stephen Schulhofer, Tom Tyler, and Aziz Huq, "American Policing at a Crossroads: Unsustainable Policies and the Procedural Justice Alternative," *Journal of Criminal Law and Criminology* 101(2011): 335–74.

30. Kassra Oskooii, "How Discrimination Impacts Sociopolitical Behavior: A Multidimensional Perspective," *Political Psychology* 37(2016): 613–40.

mosques.[31] Its proponents have presented it to the U.S. Congress and different cities of the world, as the best available model.[32] Indeed, some of the Muslim community groups in LA—including one that maintains critical distance and another that works closely with law enforcement agencies—acknowledged the LA model as better than other cities in terms of community outreach.[33] Various media outlets have highlighted LA law enforcement agencies as success stories, with one naming it "Most Notable Law Enforcement Counter Terrorism or Crime Prevention Program" in 2011.[34] In March 2015, the *New York Times* approvingly mentioned the joint appearance of a Muslim community organization leader and LAPD officer at a White House conference on a new federal initiative titled "Confronting Violent Extremism," a program that later became highly controversial.[35] As the *New York Times* reporter noted, "In a city with a history of traumatic, adversarial relations between the police force and various minority groups, Muslims among them, Chief Downing has forged bonds that are both durable and contentious." The same officer, Deputy Chief Michael Downing, was honored in 2014 by a Muslim community organization MPAC for his outstanding work.[36] Southern California is an important site to study since it has witnessed not only moments of close cooperation between law enforcement agencies and Muslim communities, but also prolonged and high-profile legal battles between them.

In this article, law enforcement is broadly defined to include local, state, and federal agencies, since in the post-9/11 period there has been an explicit attempt to

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31. There are varying estimates of Muslim population because of the lack of census data on religious groups. The Islamic Shura Council of Southern California and CAIR estimate the number of Muslims in Southern California to be closer to 500,000, spanning Santa Barbara to San Diego County. A 2010 survey that was conducted by the Association of Statisticians of American Religious Bodies estimated that there are 120,868 Muslims living in Los Angeles, Orange, Riverside, San Bernardino and Ventura Counties, see https://www.scpr.org/news/2015/12/11/56162/socal-s-muslim-community-geographically-ethnically/. According to a study conducted by Ihsan Bagby, there are 120 mosques in Southern California; that ranks second highest in the nation after the New York Metropolitan area, which has 192 mosques. See Ihsan Bagby, "The American Mosque 2011," 2011, at https://faithcommunitiestoday.org/wp-content/uploads/2011/04/The-American-Mosque-2011-web.pdf.

32. In our interview with a LAPD official, he described the awards that LAPD received for its work with the local Muslim community. He provided us with a folder that contained the award application describing all their achievements. The award application is on file with the authors.

33. Interview with the authors, December 2011.

34. LAPD wins GSN's 2011 award for "Most Notable Law Enforcement Counter Terrorism or Crime Prevention Program, at https://www.lapd.com/article/lapd-wins-gsns-2011-award-most-notable-law-enforcement-counter-terrorism-or-crime-prevention.

35. Samuel Freedman, "Los Angeles Police Leader Makes Outreach to Muslims His Mission," *The New York Times*, March 6, 2015.

36. Ibid.

coordinate efforts among different agencies for counterterrorism policing. We analyze the trust and cooperation approaches both in terms of the vision of law enforcement officials and the responsiveness of Muslim communities. Our data include legal filings, media reporting, and interviews. We conducted interviews in 2011–12 with key officials from LAPD and LASD as well as representatives from several Muslim organizations and civil rights groups in the area.[37] We interviewed the LAPD deputy chief of counterterrorism, who was a department liaison with the Muslim community, and the LASD counterterrorism in charge, who had extensive interaction with Muslims groups in the area. These two law enforcement officials were the most widely known, both locally and nationally, for their work with Muslim communities in Los Angeles while coordinating the counterterrorism work of their respective departments. These interviews yield insights into the operations of LAPD and LASD, their cooperation with other federal and local law enforcement agencies, their relationship with Muslim groups, and how officials evaluated the trajectory of their relationship with the local Muslim community. We also interviewed people in leadership positions in the Islamic Shura Council of Southern California (Shura Council), Council of American Islamic Relations (CAIR,) Muslim Public Affairs Council (MPAC), South Asian Network (SAN), Stop LAPD Spying Coalition, Council of Pakistani American Affairs (COPAA), and a coalition of local Bangladeshi organizations. The interviews with community leaders reveal their institutional interactions with law enforcement agencies, their engagement with the Muslim community, and the relationship among the groups themselves. We also attended multiple town hall meetings organized by these community groups between 2009 and 2012. This time period was important since it was not in the immediate aftermath of 9/11, a time marked by profiling and targeting of Muslims, but a period in which law enforcement was engaged in intentional outreach to the Muslim community to develop a relationship of trust and cooperation.

The two legal cases that we draw extensively upon are *Islamic Shura Council v. FBI* and *Fazaga v. FBI*.[38] The first case was a Freedom of Information lawsuit filed in 2006 by local Muslim organizations to force the government to reveal information about systematic surveillance of several prominent Muslim leaders and organizations in the area. Multiple rulings in the case provide a window into a sharp

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37. We were unable to get access to the local FBI officials, but closely followed the cases involving the agency. The LA model was touted as a success by the law enforcement agencies, but at the same time, two legal cases challenging their tactics appeared in the courts, making 2011–12 a crucial period for understanding the law enforcement and community relationship.

38. See both *Islamic Shura Council of S. Cal. v. FBI.* (2011) 2011 U.S. Dist. LEXIS 118046 and the *FBI v. Fazaga* (2011) complaint, at https://www.aclusocal.org/en/cases/fazaga-v-fbi.

deterioration of relationships between law enforcement and Muslim communities in Southern California. *Fazaga v. FBI* accused the FBI of illegally spying on the Muslim community in Orange County, California.

Even though we focus on Southern California, the relationship between local and federal law enforcement agencies in the context of counterterrorism policing and its impact on the relationship between law enforcement and Muslim communities is significant for other cities as well. The law enforcement agencies in most jurisdictions in the United States with sizable Muslim populations have struggled with community outreach, and the tension between local and federal policing has been a common theme.[39]

Law Enforcement Initiatives in Southern California

Southern California was one of the few places in the United States that witnessed a number of federal and local initiatives in the post-9/11 period to build trust and cooperation between law enforcement agencies and Muslim communities. In 2004, the FBI restructured an existing Multicultural Advisory Committee in Southern California with almost an exclusive focus on reaching out to Muslim communities.[40] Muslim organizations such as CAIR, Shura Council, MPAC, and COPAA joined this initiative alongside other prominent individuals from the local Muslim community. Following the FBI's initiative, the LASD created a Muslim Outreach Program under "Public Trust Policing" in 2005.[41] LASD also created the Muslim American Homeland Security Congress as a platform to conduct conversations

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39. Veena Dubal, in her work on the San Francisco Police Department, shows that federal agencies such as the FBI and the DHS pushed particular kinds of policing approach on local police, resulting in an antagonistic relationship between Muslim communities and law enforcement agencies. Dubal argues that increased coordination between federal and local police has undermined the gains of nearly three decades of local community policing reform. See Veena Dubal, "The Demise of Community Policing? The Impact of Post-9/11 Federal Surveillance Programs on Local law Enforcement," *Asian American Law Journal* 19 (2012): 35–59.

40. Multicultural Advisory Committees at the FBI are aimed at maintaining lines of communication between the FBI and diverse communities, based on mutual understanding, respect, tolerance, and trust. This forum allows the FBI to reach out to minority communities and make systematic efforts to build relationships with these communities. The framework for this approach with the FBI is informed by tenets of community policing. See FBI publication "Community Outreach in Field Offices: Corporate Policy Directive and Policy Implementation Guide," 2013, available at https://www.brennancenter.org/sites/default/files/blog/FBI%202013%20Community%20Outreach%20Guidelines%20combined%20w.o%20redactions.pdf.

41. The website definition is: "Public trust policing is the use of police resources in a manner that includes the public's participation in the mission of public safety"; available at http://shq.lasdnews.net/content/uoa/MCA/MCA-PublicTrustPolicing.pdf.

with the local Muslim community. In 2007, the Sheriff's Department also created the Muslim Community Affairs Unit. Two prominent names associated with the program were Deputy Sherif Morsi and Sergeant Mike Abdeen, both from the Muslim community. The LAPD Liaison Section, under the leadership of its chief counterterrorism official, Michael Downing, undertook a similar initiative called the Muslim Forum. The LAPD and LASD together created a Community Engagement and Outreach (henceforth CEO) program.[42] The counterterrorism officer associated with LAPD in an interview with the authors elaborated on the rationale behind Muslim community outreach efforts:

> The approach of [the] counterterrorism division—particularly [the] community outreach part of it—is to move away from the security perspective and develop a trust, outreach, and engagement approach. We want to reach out to communities which were isolated earlier. We want them to be a part of different civic bodies, for instance, chamber of commerce, help them in city services, put them on police advisory boards etcetera. Many of these communities are not organized and they are not mature politically, so we want to help them develop resilience and resistance.[43]

Including Muslim community voices at various levels of law enforcement was prioritized in this period. The law enforcement agencies hoped that these initiatives would end the alienation of Muslim communities from law enforcement agencies and would elicit the kind of cooperation that the police considered critical for effective counterterrorism.

One of the LASD counterterrorism officers contextualized the need for outreach and engagement with the Muslim community by referring to the initial reactions of the government and law enforcement agencies to the 9/11 attacks. He said:

> The situation immediately after September 11, 2001 was very different . . . [A] lot of money was put into counterterrorism ... [A] lot of money was put into traditional policing. It became a war zone. We alienated a large part of the Muslim community. All investigations were geared towards Muslims and mosques—complete antagonism towards Muslims. FBI's surveillance and informant program further exacerbated the situation and we realized that the Muslim community was not cooperating. With this situation in mind, the Sheriff called a meeting of prominent Muslims and Muslim organizations.[44]

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42. Award Application on file with the authors.
43. Interview with the authors, December 2012.
44. Interview with the authors, December 2012.

The LAPD and LASD targeted four main areas: Engagement, Training, Youth and Social Media and Coordination.[45] Engagement, for example, is linked to gaining "credibility" in the community through a variety of activities including the creation of the Muslim Forum, going to festivals such as the Iranian New Year, countering Islamophobia, and building relationships with Islamic centers. Training included holding counterterrorism workshops for the community and challenging any anti-Muslim rhetoric in the LAPD and LASD's own training programs. The focus on youth through social media was an important part of LAPD and LASD work with the community. In our conversations with law enforcement officials, they emphasized that no such training was available when they joined the forces and described existing biases among the trainees—for instance, assuming extremism to be linked only to Muslim communities.[46]

The CEO program explicitly recruited Muslim officers to counter distrust within law enforcement agencies about Muslims and to build relationships with Muslim communities. As Sheriff Baca said in a Congressional hearing in February 2011, "Our biggest concern in L.A. was that we did not want the Muslim Americans in our society to feel like they were being held responsible for terrorist attacks."[47] Muslim LAPD Officer Chand Syed, who immigrated from Pakistan when he was 5, gave prominent interviews: "We're not spies. If we were spies, we wouldn't be passing out cards and wearing an LAPD pin on our lapels."[48] LAPD considered Syed an important asset in its counterterrorism efforts.[49]

The Muslim identity of officers is also emphasized in other writings and interviews. For instance, Deputy Morsi is quoted as saying, "We are from the community . . . We understand the issues that matter to the community, and we provide a voice for the community."[50] In an article titled "Mingling with Muslims in Your Community," Morsi names his identity as essential in making contacts with the community and notes the imperative to counter the Islamophobia that inhibits cooperation.[51] He

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45. Award Application on file with the authors.

46. Interview with the authors, December 2012.

47. Mary Slosson, "Law Enforcement and Muslim Communities in LA: A Lesson for Rep. King?" *Huffington Post* , May 25, 2011.

48. Ibid. At least three of the officers out of the seven members of the LAPD liaison unit were Muslims.

49. Jessica Garrisson, "Counter-Terrorism Becomes Part of Law Enforcement," *Los Angeles Times*, September 6, 2011.

50. "Muslim Outreach Operation Underway," *American Police Beat*, March 2010.

51. "Mingling with Muslims in Your Community," *Deputy and Court Officer* 2 (2010): 49–53.

emphasizes how unfamiliarity with the other can lead to the unintentional alienation of the Muslim communities from law enforcement officers and, in turn, inhibit their joint role in crime prevention.[52]

An overall narrative built by these local law enforcement officials is that the trust and cooperation approaches have had considerable success in the context of Southern California, with a positive relationship being constructed with the Muslim communities and reference to Los Angeles as a model case. The shift from the initial targeting of Muslims in the immediate aftermath of 9/11 to the creation of forums that reached out to the Muslim community, hire more Muslim officers, and introduce trainings to address biases within their own agencies were provided as evidence of these efforts. However, the Southern California experience produced crisis moments that revealed the failures of trust and cooperation approaches. In the next section, we discuss two legal cases which exemplify a breakdown between Muslim communities and law enforcement agencies.

Melding of Trust and Cooperation with Surveillance

Two major legal cases regarding surveillance and the use of informants in Muslim communities in Southern California illustrate how institutional platforms that were created to build a relationship of trust and cooperation with Muslim communities could not achieve the outcome that they intended, as community outreach forums such as MCAC—the sites for deliberation and cooperation—were transformed into occasions for targeting. The first case, *Islamic Shura Council v. FBI*, revealed that the FBI-initiated MCAC in Los Angeles was also working as a surveillance mechanism.[53] Documents subsequently disclosed in the court pointed to possible role of these committees in surveillance of the members of the Muslim community. The case points to the complexity of community outreach by law enforcement agencies when those agencies are simultaneously creating a network of intelligence gathering from within the community.

The initial phase of the post-9/11 period was marked by multiple attempts by Muslim community groups and leaders to cooperate with law enforcement agencies, as reflected in the interviews that we conducted with Muslim community leaders. Many of the leaders from different Muslim groups recalled that the community

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52. Ibid.

53. The FOIA request was initiated in 2006 and the case went to court in 2008. See *Islamic Shura Council of S. Cal. v. FBI*. (2011) 2011 U.S. Dist. LEXIS 118046 for a good overview of all the different aspects of the case.

was very eager to cooperate after 9/11. The representative for CAIR, Southern California, said, "Right after 9/11, the community had felt very apologetic and wanted to demonstrate its credentials as a peace-loving community and very keen to cooperate with the law enforcement agencies." She qualified the statement by referring to the subsequent tensions between the law enforcement agencies and the local Muslim community: "...but things have changed now."[54] A leader of Shura Council provided a more detailed picture of community's engagement with law enforcement agencies. He recalled:

> Local police departments did not care much about the Muslim community in the initial years after [the] 9/11 attacks and there was not much outreach to the Muslim community . . . However, [the] Justice Department and the FBI started reaching out to the local police departments and asking them to know the Muslim community and do outreach. The FBI itself sent out blasts of memos to the community starting mid-2004... Muslims in large numbers were interested in reaching out to law enforcement officials... This would not have been possible in [the] pre-2001 period.[55]

The FBI-initiated MCAC saw a large participation from community members and organizations. As multiple interviewees confirmed, almost all well known local Muslim organizations in Southern California were a part of this forum. This was a moment when a relationship of cooperation and trust started building between the community and the law enforcement agencies. However, this trust-building forum experienced a sharp break very quickly, when Muslim leaders of MCAC started reporting surveillance by the FBI and realized that the process of mutual consultation and deliberation had possibly become a tool of surveillance.

Islamic Shura Council of Southern California v. FBI was the outcome of a FOIA request by five individuals and six organizations in 2006 requesting documents regarding any surveillance or information regarding them.[56] A year later, the government responded by initially denying the presence of any such documents, and then released four heavily redacted pages. The community members challenged the FBI

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54. Interview with the authors, December 2011.
55. Interview with the authors, December 2011.
56. The plaintiffs in this case were Islamic Shura Council of Southern California, Council on American Islamic, Relations—California ("CAIR"), Islamic Center of San Gabriel Valley, Islamic Center of Hawthorne, West Coast, Islamic Center, Human Assistance and Development International, Inc., Dr. Muzzammil Siddiqi, Shakeel Syed, Hussam Ayloush, Mohammed Abdul Aleem, and Rafe Husain. Many of these organizations and individuals were a part of the Multicultural Advisory Committee set up by the FBI.

in court, after which the government released 120 pages. The community members claimed that the information was inadequate and questioned the government's decision to heavily redact the documents as "outside the scope" of the query.

In 2009, the district court found that the government had actually lied to the court about having no additional documents and by stating that many of these documents were "non responsive" or "irrelevant" to the request. The judge disagreed with the government's claim that it could lie to the court in the context of national security. In fact, the district court initially asked for all the documents to be made public, but the Ninth Circuit Court stepped in and stated that such a public act could harm national security.[57] The district court's opprobrium is further seen in a subsequent case in November 2011 asking for damages regarding deliberate misleading of the court, which the government defended as misunderstanding rather than lying. The district court rejected the government's position and asked for reasonable attorney fees to be given the plaintiffs.[58]

While these cases did not reveal much information to the plaintiffs, they did confirm the community leaders' suspicion that some amount of surveillance was taking place. The highly redacted documents that emerged showed evidence that the community leaders were indeed targeted due to their political views or for advising community members of their constitutional rights.[59] Moreover, Southern California was not an isolated case for this kind of surveillance; documents obtained by the ACLU in Northern California through FOIA requests showed that the FBI used its community outreach programs in that area to obtain intelligence on Muslim communities.[60]

Many of the plaintiffs in the Shura Council case had enthusiastically participated with the initial outreach efforts of the FBI, despite misgivings about the sincerity of these efforts. However, their suspicion of being targets of surveillance began at these MCAC meetings.[61] A community leader from Shura Council described how his car was searched on FBI premises while he was attending an MCAC meeting at FBI headquarters. He and others had an inkling that searches were taking place because they would find that their belongings had shifted in the car while they were

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57. *Islamic Shura Council of S. Cal. v. FBI.* (2011) 2011 U.S. Dist. LEXIS 118046. *Islamic Shura Council of S. Cal. v. FBI.* (2011) 2011 U.S. App. LEXIS 6481.

58. *Islamic Shura Council of S. Cal. v. FBI.* (2011) 2011 U.S. Dist. LEXIS 134123.

59. Ibid.

60. The ACLU filed a FOIA request in Northern California on surveillance practices among Muslims and also received a number of redacted documents, about 50,000 pages; see https://www.aclunc.org/blog/fbi-ordered-disclose-its-surveillance-tactics-communities.

61. Interview with the authors, January 2011.

at MCAC meetings.[62] While these suspicions were never directly confirmed, the court proceedings did confirm that these community leaders were surveilled by the law enforcement agencies. The community leaders noted unmarked law enforcement vehicles outside their homes monitoring their activities and following them, and suspected that their phones were being tapped as well. One plaintiff in the Shura Council case said that he stopped attending MCAC meetings because of repeated complaints that community members were being questioned by the law enforcement agencies about their political views, sermons, and other activities.[63] The Shura Council case demonstrates the breakdown of trust and cooperation approaches.

The second case, *FBI v. Fazaga*, involved the use of an informant by the FBI in multiple Orange County mosques.[64] The distrust the community felt toward the FBI in Southern California erupted when it turned out that in the midst of the trust building efforts, FBI agents had sent in an informant to a number of local mosques in 2006 and 2007 to randomly gather intelligence on the community. The community members became suspicious of this informant and reported him, ironically, to the FBI. This was the basis of the case filed by Sheikh Fazaga, a respected Islamic scholar and imam of the Orange County Islamic Foundation (OCIF), and former Islamic Center of Irvine (ICOI) mosque members Ali Uddin Malik and Yasser Abdulrahim.[65] The plaintiffs argued that the FBI conducted surveillance of thousands of Muslims in Southern California with the help of a paid agent provocateur, Craig Monteilh.

In July 2006, Monteilh approached the imam at the Islamic Center of Irvine (ICOI) and converted to Islam, claiming a French/Syrian ancestry. The community welcomed him by giving him books, talking to him, and inviting him to their homes. The imam asked Malik to initiate Monteilh into Islam, but Malik became uncomfortable with Monteilh's questions, especially on violent jihad, and started avoiding Monteilh. AbdelRahim also tried to befriend Monteilh, inviting him to his house frequently, but likewise became uncomfortable with Monteilh's questions.

While Monteilh mostly went to the ICOI, he also went to the other mosques in the area. He was paid between $6000 and $11,000 per month by the FBI to surveil community members indiscriminately as part of a program referred to as Operation Flex.[66] The FBI reportedly told Monteilh that Islam was a threat to America's

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62. Interview with the authors, January 2011

63. Gabe Freedman, "Lawsuit Against FBI May Set Tone: Muslim Americans Say the Agency is Hiding Documents without Good Cause," *Daily Journal*, August 27, 2010.

64. This case was filed in 2011.

65. *FBI v. Fazaga*, complaint filed in 2011, at https://www.aclusocal.org/en/cases/fazaga-v-fbi.

66. Ibid. See also Trevor Arronson, "The Informants," *Mother Jones*, September/October, 2011.

national security and that while warrants are required for domestic criminal investigations, national security is different and Kevin (local FBI officer) is God.[67] The FBI instructed him to ask community members about violent *jihad*, to express his own willingness to participate in such activities, and to record those conversations and others with hidden audio and video equipment. The members reported Monteilh's comments to the community leaders and secured a restraining order to stop him from entering the ICOI. Subsequently, in a different case, the FBI admitted in court that Monteilh was their informant. This revelation, understandably, was a shock for the community members as it confirmed their suspicion.[68]

The documents in this case suggest that the FBI often surveilled individuals for their political beliefs or even their appearance.[69] For instance, Fazaga was targeted because he was on the board of "In Focus News," a Muslim newspaper that was critical of discriminatory practices of the U.S. government against Muslims. He was subject to much scrutiny during travel and his congregants were nervous about meeting in the mosque and talking. Malik was under suspicion because he was a part of the Muslim Students Union, had traveled to Yemen for school, and had a particular way of grooming his beard. Subsequent to this episode, Malik trimmed his beard, stopped wearing a skull cap, went to the mosque less, and experienced constant fear of surveillance.[70]

On August 14, 2012, the Fazaga case was dismissed by the district court on the basis of the state secrets privilege.[71] However, it was revived by the Ninth Circuit Court in a February 2019 ruling stating that the district court was wrong in using state secret privilege to dismiss the case.[72] Regardless of its eventual legal outcome, this episode showed how the FBI undermined the credibility of attempts—their own and those of local law enforcement agencies—to build cooperation and trust.

Evaluating the Trust and Cooperation Approaches

In this section, we evaluate the trust and cooperation approaches in Southern California and identify three main reasons for the failure of these approaches. First, law

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67. *FBI v. Fazaga*, complaint filed in 2011, at 35; at https://www.aclusocal.org/en/cases/fazaga-v-fbi.

68. Ibid.

69. *FBI v. Fazaga* (2011), complaint, at https://www.aclusocal.org/en/cases/fazaga-v-fbi.

70. *FBI v. Fazaga* (2011), complaint at 44; see at https://www.aclusocal.org/en/cases/fazaga-v-fbi.

71. Public Declaration by Eric Holder, Attorney General of the United States in *Fazaga et al. v. FBI et al.*, July 29, 2011, at https://fas.org/sgp/jud/statesec/fazaga-holder.pdf.

72. Maura Dolan, "9th Circuit Revives Muslims' Lawsuit Charging FBI with Spying at Mosques," *Los Angeles Times*, February 28, 2019.

enforcement agencies failed to maintain the separation between community out-reach and intelligence gathering. Second, the lack of demarcation between the local and the federal law enforcements agencies in the name of effective counterterror-ism made it further difficult to separate outreach and intelligence gathering. Third, the agencies failed to make space for "dissident values," an important element of creating trust with a community.

Combining Community Outreach and Counterterrorism Intelligence Gathering

The MCAC created by the FBI and the resulting legal case—*Shura Council v. FBI*—demonstrate how community outreach and intelligence gathering were brought together, creating a crisis for the trust and cooperation approaches adopted by law enforcement agencies in Southern California. This lack of separation was not only a feature of how the FBI conducted its community outreach but also a part of how local law enforcement agencies operated in relation to Muslim communities. For instance, the Muslim outreach unit in LASD was formally placed within the coun-terterrorism unit.[73] LASD attempted to keep counterterrorism and outreach work separate by placing them in distinct physical locations, but the command structure remained the same.[74]

Similarly, the Muslim outreach unit of the LAPD was headed by the counterter-rorism chief, who told us that he tried to keep the outreach and counterterrorism teams separate but acknowledged that "if you mix the two, you lose your legit-imacy. . . . Ideally there should have been a public relations unit in the chief's office, which reached out to the community and built relationships, but right now it is under my jurisdiction and I do both the things—intelligence and outreach. But we realize with Muslim community you need more finesse.[75]

Officials from both these departments suggested that the placement of commu-nity outreach was mostly linked to funding, although the LAPD official admitted that the present counterterrorism unit in the LAPD was reflective of the unique na-ture of the Muslim community, suggesting that counterterrorism and Muslim out-reach are inseparable at this point, in his opinion. The Sherriff's department pointed out that their outreach program "does not have a budget . . . we do not have money set aside for outreach, but we have two full time deputies. LAPD also does not have a budget but they tap into private sources. The way we work is to reach out to other

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73. Interview with the authors, December 2012.
74. Ibid.
75. Ibid.

agencies and pool resources."[76] Even though there were deputies partially assigned for community outreach, there was very little support in terms of resources needed to do the outreach.

The symbolic as well as practical implication of the location of the community outreach unit within counterterrorism operations is that relations with Muslim communities come within the purview of "emergency preparedness" (a term used by a community member) since Muslims are not approached through the community relations unit used for other communities. The primary mode of police interaction with the Muslim community in Los Angeles is conducted through the counterterrorism unit. When it came to engaging with the Muslim community, in contrast to other communities, it became a common practice to do it through the counterterrorism unit. For instance, when the LAPD was involved in a routine car chase concerning a Pakistani person, it was counterterrorism chief Mike Downing who came and spoke to the community. While earlier the community relations unit would be responsible for interaction with the community, now it is the counterterrorism liaison unit that interacts with them, making it a fraught relationship.[77] The emergence of counterterrorism in relation to the Muslim population, particularly in the post-9/11 period, changed how community outreach was conducted when it came to the Muslim community. The difficulty in distinguishing between counterterrorism and outreach is captured in a statement by Officer Matullah, who immigrated from Egypt when he was 18: "Yes, it is counterterrorism work. But we're not here to spy on people. We do outreach, and that's our major tool."[78]

The merging of community outreach and intelligence has been further magnified by the development of very close coordination between the federal infrastructure on counterterrorism and local policing through efforts such as the Joint Terrorism Task Force (JTTF) and fusion centers. Under the leadership of the FBI and the DHS, these mechanisms brought in policing practices that circumvented local policing oversights. The fusion centers created in the post-9/11 period, involving government and private sector entities, were meant to share information between different local, state, and federal law enforcement agencies. The fact that these fusion centers emerged as structures of efficiency and technical modes of information sharing accelerated the process of bringing different levels of law enforcement in close coordination as far as dealing with Muslim community was concerned. Fusion centers emerged as a law enforcement mechanism aimed at efficient information

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76. Interview with the authors, December 2012.
77. Interview with the authors, December, 2011.
78. Mary Slosson, "Law Enforcement and Muslim Communities in LA: A Lesson for Rep. King?" *Huffington Post* , May 25, 2011.

sharing that sharply enhanced the possibilities of Muslim surveillance and targeting by bringing different levels of law enforcement together.[79] It was thus not surprising that the Muslim community organizations turned against fusion structures for improper dissemination of information without necessary oversight. They argued, "...the fact that fusion centers encourage wholesale data collection yields a high likelihood of privacy infringements. Coupled with the lack of federal oversight and accountability, there is a genuine fear that fusion centers lack the appropriate legal limits as it relates to the collection of information on terrorism suspects as well as the government's efforts to prevent terrorism."[80]

Recruitment of local law enforcement officials by the JTTF under the leadership of the FBI further diluted the distinctions between local and federal agencies and raised concerns about accountability and oversight. In San Francisco, civil rights attorneys reported dozens of innocent Americans being approached by local law enforcement officers, deputized to the FBI's JTTF, inquiring into lawful religious and political activities without any suspicion of criminal activities.[81] Officers from local police departments assigned to JTTF follow permissive rules for domestic investigations, otherwise disallowed to them, cloaked in layers of secrecy evading traditional oversight mechanisms.[82] In fact, the San Francisco Police Department pulled out of JTTF in 2017 over the concerns expressed by local community groups about the lack of oversight and the increasing tensions between the local police and minority communities.[83] Portland, Oregon was the second city to withdraw from the JTTF, citing similar concerns, including issues raised by groups working to protect undocumented populations in the city.[84]

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79. Naomi Murakawa, in her historical analysis of mass incarceration, points to similar processes of police efficiency and professionalizing that contributed immensely to increased incarceration of people of color. See *The First Civil Right: How Liberals Built Prison America* (New York: Oxford University Press, 2014).

80. "What are Fusion Centers?" Muslim Public Affairs Council, May 18, 2009, at https://www.mpac.org/programs/government-relations/what-are-fusion-centers.php.

"ACLU Calls for Internal DHS Investigations on Fusion Centers." ACLU, April , 2009, at https://www.aclu.org/news/aclu-calls-internal-dhs-investigations-fusion-centers.

81. Jerry Markon, "FBI Accused of Spying on Muslims at Community Outreach Forums, ACLU says," *Washington Post*, December 1, 2011.

82. See Center for Democracy & Technology, "Investigative Guidelines Cement FBI Roles as Domestic Intelligence Agency, Raising New Privacy Challenges," October 29, 2008, at http://www.cdt.org/policy/investigative-guidelinescement-fbi-role-domestic-intelligence-agency-raisingnew-privacy-cha.

83. Jonah Owen Lamb, "Police Withdraw from Controversial FBI Anti-Terrorrism Task Force," *San Francisco Examiner*, February 1, 2017.

84. Amelia Tempelto, "Portland Withdraws from Federal Joint Terrorism Task Force, Again," *Oregon Public Broadcasting*, February 13, 2019. This issue has also emerged in Detroit, San Francisco, San Diego, and Minneapolis, among other places.

In Los Angeles the dispute about the relationship between federal agencies and the local police departments manifested in the context of mobilization against a well-known federal program called Countering Violent Extremism (CVE). CVE was an Obama administration program that was defined "as a community-driven initiative to tackle terrorism and militant recruitment by preventing radicalization from taking root."[85] This program—proposed in 2015, to be piloted in Los Angeles, Boston, and Minneapolis—explicitly connected the U.S. Attorneys' offices, the Department of Homeland Security, the FBI, the local law enforcement agencies, and community groups. The city of Los Angeles was granted $425,000 from the federal CVE program for local agencies—both law enforcement and others—to work with federal agencies to develop a local counterterrorism program with a focus on Muslim communities. This proposal reignited tensions between Muslim community groups and law enforcement agencies in Los Angeles.[86] The Muslim community groups, who considered the CVE to be an attempt to target their community members in the name of fighting extremism, aligned with civil liberties and Asian American groups to mobilize against this initiative which forced Mayor Eric Garcetti to reject the grant from the Department of Homeland Security.[87] The mobilization by civil rights organizations and Muslim community groups in Los Angeles against the CVE program was thus a rejection of the confluence of federal agencies and local police departments in counterterrorism work and in the process highlighted the problems in this merging of local and federal law enforcement initiatives.

Close coordination between local and federal agencies has created problems with community and law enforcement relationship in other jurisdictions too. David Thacher's work on Dearborn, Michigan shows how the involvement of local police in interviewing a sizable of number of local Arab and Muslim residents on behalf of the Department of Homeland Security and the FBI put a severe

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85. Tami Abdollah and Philip Marcelo, "Where U.S. Sees Terror Prevention, Some Muslims See Profiling," *AP News*, April 20, 2015.

86. Amna Akbar has critiqued the initiatives undertaken by the federal agencies in relation to Muslim communities across the United States. She discusses the community outreach programs launched by the FBI, the Department of Justice, and the Department of Homeland Security that try to foreground the community policing while simultaneously using the counterterrorism tools. She argues that the White House initiative Countering Violent Extremism (CVE) is extremely controversial primarily because of its reliance on preventive counterterrorism that draws heavily upon the theory of Muslim radicalization that criminalizes ordinary acts of faith and community interactions. For details, see Amna Akbar, "National Security's Broken Window," *UCLA Law Review* 62 (2015): 834–907.

87. Deepa Bharath, "LA Mayor Turns Down $425 K in Federal Funding to Counter Violent Extremism After Opposition from Civil Rights Groups Stalls Process," *Los Angeles Daily News*, August 16, 2018.

strain on the relationship between local police department and Arab and Muslim communities.[88]

The local law enforcement officials in Los Angeles area were aware of the tension that emerged in bringing together the local and federal initiatives and occasionally attempted to distance themselves from the federal initiatives. The officials from the LAPD and Sheriff's office we interviewed agreed that the placing of an FBI informant in an Orange County mosque was a huge mistake. But local officials mostly considered these mistakes to be the responsibility of federal law enforcement agencies. They distinguished their own Muslim outreach efforts, in the form of the CEO program—which was planned and executed by the local agencies—as much more trust inducing and successful. They indignantly claimed that, unlike the federal agencies, they took the long view of their relationship with the community and have more at stake in terms of building a more trustworthy relationship.[89] Both LAPD and LASD tried to distance themselves from the FBI's work even while close coordination seems to be the reality of how federal and local law enforcement operate. Commenting on the *Islamic Shura Council* case, an LAPD counterterrorism official said: "We did not work with the FBI on intelligence gathering. We feel that the FBI initiated MCAC's failure was dependent on whether the FBI was more interested in doing intelligence gathering in comparison to outreach. If it was former then there is a problem, but we try to keep the two separate."[90] The LASD's counterterrorism chief also expressed his skepticism about the FBI's approach:

> FBI's approach is very different. They rely much more on surveillance and informants and in the process they made mistakes. The *Islamic Shura Council* case and the Orange County mosque case [*Fazaga*] are examples of such mistakes.[91]

Notwithstanding such claims, the LAPD and LASD's distinction from federal agencies was difficult to discern in light of the close structural and operational coordination between local and federal police, which is part of a larger trend in counterterrorism policing.

Moreover, in LA, the LAPD and not the FBI initiated one of the major acts of intrusive surveillance—the Muslim Mapping Project. The LAPD had proposed

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88. See David Thacher, "The Local Role in Homeland Security," *Law and Society Review* 39 (2005): 635–76.
89. Interview with the authors, December 2011.
90. Interview with the authors, December 2012.
91. Interview with the authors, December 2012.

an ambitious plan in 2007 to gather systematic and detailed information on Muslim communities in terms of their residential patterns, places of worship, and other important places of their everyday lives. The information leaked during a U.S. Senate hearing on Muslim radicalization, providing the local Muslim community with further evidence of the desire of local police to collect information for surveillance. The LAPD eventually decided to withdraw the plan, given legal and political mobilization by Muslim and civil liberty groups.[92] Thus, the merging of outreach and intelligence work and the melding of local and federal initiatives in counterterrorism policing has structurally created tensions between law enforcement officials and the Muslim communities in Southern California and elsewhere.

After the *Fazaga* case, Muslim community leaders reported that community members started dressing differently and becoming less vocal and more wary of welcoming new members.[93] Indeed, community leaders from CAIR and the American Muslim Task force on Civil Rights and Elections (among others) asked the Muslim communities not to participate in any cooperating efforts after the case of the informant was exposed.[94] "Good intentions won't have much effect as long as law enforcement agencies engage and view the American Muslim community exclusively through the prism of national security and counterterrorism," said Hussam Ayloush, the CAIR chapter's executive director. "Such a framework is demeaning and harmful because it unfairly singles out and stigmatizes our community."[95]

Finding Space for Dissenting Voices

Finally, the question of how the law enforcement community deals with "dissident voices" becomes an important part of evaluating the trust and cooperation approach. As we indicated earlier, scholars have recently noted the need to create forums or opportunities for dissident voices to allow for trust to emerge between law enforcement and minority communities. Given the controversy over FBI surveillance and Muslim mapping, the approach of LAPD and LASD toward Muslim

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92. Neil MacFarquhar," Los Angeles Police Scrap Mapping Plan, Elating Muslims," *New York Times*, November 16, 2007. See also Jason Kandel, " LAPD Sued for Witholding Records about 'Muslim Mapping' Plan," *NBC Los Angeles*, July 27, 2016. Interestingly, the LAPD later claimed that the withdrawal was a reflection of a better relationship with the community as compared to the NYPD—which had a parallel mapping program—because in LA they attempted the community mapping in a transparent manner.

93. Interview with the authors, January, 2012.

94. "U.S. Muslim Coalition Considers Suspending Relations with FBI," CAIR, March 17, 2009. https://www.cair.com/press_releases/u-s-muslim-coalition-considers-suspending-relations-with-fbi/.

95. Samuel Freedman, "Los Angeles Police Leader Makes Outreach to Muslims His Mission," *The New York Times*, March 6, 2015.

organizations pointed to a crisis of engagement. Their approach relied on engaging with Muslim organizations based on how critical those groups had been of law enforcement agencies. The counterterrorism official from LAPD put it very plainly in an interview with us:

> There are some organizations which serve as barriers,... particularly CAIR and Shura council;... they try to create resentments. The organizations which work with us are MPAC, Sikh American Legal Defense Fund, Muslim Public Forum.... We have focused on Muslim women, particularly the questions of domestic violence. We do not necessarily work with any one organization but more directly with the community....[96]

The LAPD's discomfort with dissenting voices from Muslim community is clearly evident here. The local police worked toward delegitimizing these voices, maintaining that these organizations did not represent the community. An LASD representative was more forthcoming on this issue in our conversation with him:

> We have a great relationship with the Muslim community. . . . Grassroots is more trustworthy but leaders create problems . . . they want to create resentment . . . some of the community organizations felt that we tried to undermine their authority;... they wanted us to approach them if we reached out to Muslim community.... We cannot do that;... we do not need their permission . . . we have to do law enforcement job,... so we started going around them... and creating a direct relationship with the community.[97]

In a follow up question, the LASD representative named Shura Council and CAIR as the problem organizations that try to undermine law enforcement agencies. The LASD representative also mentioned that the FBI gets its approach to CAIR from Washington, D.C. where people feel that CAIR is an unindicted party in the Holy Land case that was a major terrorism case.[98] The organizations mentioned by both LAPD and LASD representatives as creating resentment among

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96. Interview with the authors, December 2011.
97. Interview with the authors, December 2011.
98. Holy Land Foundation (HLF) case was brought against the Holy Land Foundation charity based in Texas that provided humanitarian relief in Palestine. In December 2001, the U.S. government designated HLF a terrorist organization, seized its assets, and closed the organization after many years of surveillance. In 2004, a federal grand jury in Dallas, Texas charged HLF and five former officers and employees with providing material support to Hamas and related offenses. CAIR was named as an unindicted co-conspirator in the cases and the FBI adopted a very unfriendly and hostile approach to CAIR based on this case; see https://oig.justice.gov/reports/2013/e0707r-summary.pdf.

local Muslims are the same organizations—CAIR and Shura Council—that filed lawsuits against the FBI and mobilized against the Muslim Mapping project. The quotes above point to the complications of trust and cooperation approaches where the local law enforcement agencies claim to engage with the community but refuse to engage with dissenting voices within that community. Instead, we find that any attempts to push back against the discriminatory federal or local initiatives such as surveillance, use of informants, the CVE, or the Muslim Mapping Project emerge from outside the forums created under the trust and cooperation approaches.

The Southern California experience thus points to a particular form of layered counterterrorism policing that relied on bringing together the local and the federal in a manner that undermined the trust and cooperation approaches. Suspicion of the community became an integral part of counterterrorism policing, and even the local police agencies were unable to move away from this framework.[99] Finally, it is important to reiterate that while there is an inherent tension within policing between intelligence and outreach, the Muslim community organizations were willing to enter into a relationship with local agencies and work through questions of trust and cooperation. Here it is also important to note that as works of Schulhofer, Tyler, and Huq point out, creating a legitimate procedure also contributes toward creating a longstanding relationship with the community. Our interviews showed that the precise forums created for trust and cooperation ended up being utilized for surveillance, seriously delegitimizing the efforts of the law enforcement agencies.

Conclusion

Immediately after 9/11, while use of hostile policies such as detention and deportation marked the relationship of law enforcement with Muslim communities, trust and cooperation approaches were implemented to improve the relationship between Muslim communities and law enforcement agencies. Creation of forums for participation of Muslim community groups and initiatives for outreach and recruitment of officers from the community marked these efforts. Community leaders appeared to welcome the initiatives and participated in these efforts.

However, an analysis of the initiatives and legal cases in Southern California, revealing surveillance and use of informants, suggests serious shortcomings of the counterterrorism policing approaches in their attempts to build a relationship of

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99. The SARS program was a major point of contention in Los Angeles and some changes were made to the program due to the negotiation between civil rights groups and LAPD. See Matthew Harwood, "LAPD Agrees to Suspicious Activity Reporting Reforms," *Security Management*, May 18, 2012.

trust with the Muslim communities. Law enforcement agencies failed to recognize how the layering of policing, conflating local and federal as well as collapsing community outreach with intelligence gathering, erases spaces for dialogue and dissent and creates a gaze of suspicion on the entire Muslim community.

Sangay Mishra is Assistant Professor of Political Science and International Relations at Drew University. His research interests are immigrant political incorporation, racialization of Muslims, Diaspora, and Asian American politics with a special focus on South Asian immigrants. He is the author of *Desis Divided: The Political Lives of South Asian Americans* (University of Minnesota Press, 2016). He can be contacted at smishra@drew.edu.

Jinee Lokaneeta is Professor of Political Science and International Relations at Drew University. Her areas of interest include law and violence, political theory (postcolonial, feminist, and Marxist theory), cultural studies, and interdisciplinary legal studies. Her most recent book is *The Truth Machines: Policing, Violence, and Scientific Interrogations in India* (University of Michigan Press, 2020). She can be contacted at jlokanee@drew.edu.